

State of California
CALIFORNIA OCCUPATIONAL SAFETY AND HEALTH APPEALS BOARD
CLOSED SESSION AGENDA
Government Code § 11126 (a), (c)(3), and (e)
for
Wednesday, December 15, 2010
10:00 a.m.
Sacramento, California
&
West Covina, California

TO: Members of the California Occupational Safety and Health Appeals Board

FROM: J. Jeffrey Mojcher, Chief Counsel

DATE: December 2, 2010

RE: Closed Session of the Board to be held on December 15, 2010

Pursuant to Government Code section 11126, subdivisions (a), (c)(3), and (e) and the Labor Code sections 6609 and 6620, the Appeals Board will hear the following items in Closed Session.

DECISIONS OF ADMINISTRATIVE LAW JUDGES:

(Written decision issued by an Administrative Law Judge. The decision summarizes the evidence received from the Division of Occupational Safety & Health and the Employer, makes findings of fact for all issues involved in the appeal and gives reasons and grounds for the decision. The Board Members review the decision and decide if they will reconsider the ALJ decision on their own motion.)

1. BURBANK RECYCLING, INC., 10-R4D3-0562 AND 0563
2. ROBERT GALINDO, 08-R2D5-4759 AND 4760
3. MASCON, INC., 08-R2D1-4278 AND 4279
4. P.P. MANUFACTURING, 10-R3D6-0749 AND 0750

ORDERS OF ADMINISTRATIVE LAW JUDGES:

(Written order issued by an Administrative Law Judge after a pre-hearing conference in which the Division of Occupational Safety & Health and the Employer agree to settle an appeal without a hearing. The Board Members review the order and decide if they will reconsider or remand the issued order.)

1. ACCO ENGINEERING SYSTEMS, 10-R4D2-0575

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2. ADVANCED CONCRETE & CONSTRUCTION, INC., 10-R4D3-0020
3. ANDRES TECHNICAL PLATING, INC., 10-R3D1-1762 THROUGH 1765
4. ARBORICULTURAL SPECIALTIES, INC. DBA PROFESSIONAL TREE CARE CO., 08-R1D4-0799
5. ARGO CHEMICAL, INC., 10-R4D3-2005 THROUGH 2007
6. ATLAS PALLET CORPORATION, 09-R6D7-3568
7. WON JIN BANG DBA PBS PAINTING & MAINTENANCE, 10-R6D5-2921 THROUGH 2923
8. BARBOUR VINEYARDS LLC, 09-R1D5-2354 AND 2355
9. BAY CITIES PAINTERS & DECORATORS, 09-R1D1-1224
10. BH PARTNERSHIP DBA BAHIA HOTEL AND BAHIA HOTEL AS OPERATOR OF BELMONT LAUNDRY (formerly EVANS HOTELS), 10-R3D2-2540 AND 2541
11. BUTTERFLY WENDEL US, INC. DBA DEUTSCH ECD, 10-R3D3-3246
12. CA. DEPT. OF CORRECTIONS SAN QUENTIN, 09-R1D5-0895
13. CHAUR JOW, INC., DBA 888 SEAFOOD RESTAURANT, 10-R6D2-0543 AND 0544
14. CITY OF PALO ALTO, 09-R1D2-0193 AND 0194
15. CLASSIC WOOD CRAFT, 10-R6D2-1182 THROUGH 1185
16. D & C DISTRIBUTING CO., INC. DBA PICOULAS NUT CO., 10-R4D1-2180 THROUGH 2183
17. DELTA AIR LINES, INC., 10-R4D1-2788
18. ESPARZA ENTERPRISES, 09-R2D5-0334 AND 0335
19. FRESNO COUNTY CORONER'S OFFICE, 09-R2D5-4012
20. GARCIA JUAREZ CONSTRUCTION, INC., 10-R3D2-1083
21. GENERAL UNDERGROUND FIRE PROTECTION, INC., 10-R3D1-2142 THROUGH 2144

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22. GIUMARRA VINEYARDS, 08-R2D5-4355
23. GIUMARRA VINEYARDS, 08-R2D5-4356
24. GMG JANITORIAL, INC., 09-R1D1-4095 THROUGH 4097
25. GOMEZ FARM LABOR CONTRACTING, INC., 10-R3D3-2405
26. GRATA MODE, INC. DBA DIVA, 10-R6D5-0381 THROUGH 0384
27. RICHARD HERNANDEZ DBA SUPER SPORT BODY & PAINT, 10-R6D5-1883
28. JDM CONSTRUCTION CO., INC., 09-R1D4-1629 AND 1630
29. ALEJANDRO GONZALEZ JIMENEZ DBA AG PALLETS, 10-R6D5-0453 AND 0454
30. KOZY SHACK, INC., 08-R2D4-5003
31. KHALID MEHMOOD DBA SMS AUTO BODY REPAIR & PAINT, 09-R6D7-3267
32. METHODIST HOSPITAL OF SOUTHERN CA., 10-R4D2-1868
33. MODERN ROOFING, INC., 10-R4D2-2579
34. MORE GUSTO CATERING, INC. DBA EL CHOLO CATERING, 10-R4D1-1298
35. MOUNTAIN VIEW CAR WASH, INC., 10-R3D3-2247 AND 2248
36. MOUREN FAMILY FARMS, INC., 10-R2D5-2398
37. NATIONAL EMPLOYEE BENEFITS LLC, 10-R4D1-0787 THROUGH 0793
38. NB & T INDUSTRIES DBA APC INDUSTRIES, 10-R4D2-1299 THROUGH 1301
39. OHLINE CORPORATION, 10-R4D1-0294 AND 0295
40. P. KAY METAL, INC., 10-R6D2-0499
41. PACIFIC WEST COMMUNICATIONS, INC., 10-R3D1-1240 AND 1241
42. PAPER SOURCE CONVERTING AND MFG., INC., 10-R4D2-1947 AND 1948
43. PEG CONSTRUCTION, INC., 10-R6D7-2153

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44. JOSE LUIS PEREZ DBA STANDARD PALLETS, 10-R6D5-0321 AND 0322
45. PLACEMENT PROS, 10-R2D5-1463
46. POWER TRAIN SERVICES, 10-R2D5-1491
47. PRECISION AUTO BODY & PAINT, INC., 10-R6D5-0026
48. RB GOLF CLUB DBA THE COUNTRY CLUB OF RANCHO BERNARDO, 10-R3D2-2100
49. SAN DIEGO COUNTRY ESTATES ASSOCIATION, 10-R3D2-1896
50. SAN LUIS OBISPO COUNTY YMCA, 10-R4D3-2205
51. SGL TECHNIC, INC., 10-R4D3-1337 AND 1338
52. SHOWTIME EXPRESS CAR WASH, 10-R6D7-2506
53. STERIS ISOMEDIX SERVICES, INC., 10-R6D4-2601
54. STOUT ROOFING OF CALIFORNIA, INC., 09-R1D4-0135 THROUGH 0139
55. SUMMA DEVELOPMENT GROUP, 10-R2D5-2071 AND 2072
56. SUN FARMS, INC., 09-R2D5-3882
57. THE CHAMBERS COMPANY, 10-R3D1-1895
58. TRENTADUE WINERY, 09-R1D5-1501
59. TRINIDAD BENHAM CORPORATION, 10-R2D4-0807 AND 0808
60. TRS INDUSTRIES, INC., 10-R6D2-0489 THROUGH 0495
61. UNDERGROUND CONSTRUCTION CO., INC., 09-R2D2-0105
62. UNITED ALLOYS, INC., 10-R4D2-2904 AND 2905
63. VALLEJO CITIZENS TRANSIT CORP., 09-R2D2-2402
64. VALLEY PRIDE, INC., 09-R6D7-2605
65. WEBCOR CONSTRUCTION LP, 08-R1D2-0122
66. WESTERN PACIFIC PIPELINE CORP., 10-R3D2-1059 AND 1060

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67. ZENITH SPECIALTY BAG CO., INC., 10-R3D6-1963 AND 1964

ORDER UPON REMAND:

1. MILLENIUM GENERATION, INC., 08-R4D3-5047

STIPULATIONS:

1. CHARLES RONALD ESPINOZA dba ESPINOZA CONSTRUCTION CO.,
07-R2D1-4643 & 4644
2. CHARLES RONALD ESPINOZA dba ESPINOZA CONSTRUCTION CO., 08-
R2D1-4255 THROUGH 4257
3. FEDEX GROUND PACKAGE SYSTEM, INC., 08-R2D1-3348
4. LOS ANGELES COUNTY FAIR, 10-R3D6-0484 THROUGH 0486
5. MOERMAN-CLARK, INC., 09-R1D1-0574
6. SHULTZ BUILDING CO., LP, 09-R1D5-0070 THROUGH 0073

PETITIONS FOR RECONSIDERATION:

(The Division of Occupational Safety & Health and the Employer each has the right to petition the Appeals Board to reconsider a decision or order of an Administrative Law Judge. The Appeals Board must decide to grant or deny each petition.)

1. A & C PALLETS, 10-R6D5-1687 & 1688
2. AJ BORBA HOLSTEINS, 08-R3D4-2710 & 2711
3. ALL AMERICAN ASPHALT, 09-R3D1-3871 & 3872
4. CEMTEX, INC. DBA CEMAS WINDOW COVERINGS, 10-R4D2-1809 & 1810
5. JJALL LLC, 09-R6D5-1127
6. SAFER ARMS INDOOR & OUTDOOR GEAR, 08-R2D3-9081

DENIALS OF PETITIONS FOR RECONSIDERATION (DRAFTS):

1. FLEMING METAL FABRICATORS, 09-R6D2-4309 THROUGH 4311
2. KOGA COLORSCAPE & MAINTENANCE, INC., 10-R3D1-9220

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3. PACIFIC WESTLINE, INC., 10-R3D1-0278

DECISIONS AFTER RECONSIDERATION (DRAFTS):

(If the Appeals Board grants a petition for reconsideration it reviews the facts of the appeal and then issues a decision after reconsideration upholding, reversing or modifying the underlying ALJ decision.)

1. AARON METALS COMPANY, INC., 09-R1D4-2137 AND 2138
2. AC TRANSIT, 08-R1D4-0135
3. AGWOOD MILL & LUMBER, INC., 08-R1D5-1068
4. VERNON MELVIN ANTONSEN & COLLEEN K. ANTONSEN, INDIVIDUALLY
DBA ANTONSEN CONSTRUCTION, 06-R2D3-1272
5. ANNING-JOHNSON COMPANY, 06-R1D3-1976
6. AVESON EDUCATIONAL COOPERATIVE, 09-R4D2-0337
7. BART, 03-R1D1-5170
8. BIMBO BAKERIES USA, 05-R6D2-856 AND 857
9. BLF, INC. dba LARRABURE FRAMING, 03-R4D3-4428 AND 4429
10. BOBERG ENGINEERING & CONTRACTING, INC., 06-R3D3-4963
11. BRUNTON ENTERPRISES, INC. DBA PLAS-TAL MFG. CO., 08-R3D3-3445
12. BRUNTON ENTERPRISES DBA PLAS-TAL MFG. CO., 09-R6D2-2239
THROUGH 2241
13. BURRTEC WASTE INDUSTRIES, 10-R3D3-9222
14. BURTON L. SILVA FARMS, 09-R1D2-1498
15. C & M FINE PACK, INC. 07-R6D2-4149 THROUGH 4155
16. C.C. MYERS, INC., 08-R1D1-952 THROUGH 955
17. CA CORRECTIONS, 08-R2D5-0975 THROUGH 0978
18. CA RASMUSSEN, INC., 08-R4D5-219 AND 220

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19. CALIFORNIA INTERSTATE EXPRESS, 09-R4D2-3460
20. CELTIC SCAFFOLDING, INC., 08-R1D1-1469 THROUGH 1471
21. CLINE CELLARS, INC., 08-R1D5-2946
22. CJI PROCESS SYSTEMS, 09-R6D2-1333 THROUGH 1336
23. CNL ROOFING COMPANY, 08-R1D2-1692 AND 1693
24. COMMERCIAL METAL FORMING, 09-R3D1-1592
25. CORE GENERAL CONTRACTOR, INC. DBA CORE BUILDERS, 08-R1D2-1379
26. CORONADO IRRIGATION SERVICES, 09-R4D2-0385 THROUGH 0387
27. CROP PRODUCTION SERVICES, 09-R6D4-4036 THROUGH 4038
28. DAKOTA COMPANIES UNLIMITED, 05-R4D3-392 AND 393
29. DESIGN BUILDERS, INC., 08-R4D4-1901
30. JOAQUIN DUARTE DBA PROFESSIONAL TREE SERVICE, 09-R3D3-1111
31. DUKE PACIFIC, INC., 06-R3D3-5175 THROUGH 5177
32. DUKE PACIFIC, INC., 08-R3D3-574
33. DUININCK BROS., INC., 06-R4D3-2871
34. DYNALECTRIC, 03-R1D1-4101
35. E. C. U., INC., 09-R3D5-1094 AND 1095
36. EPSILON ELECTRONICS, INC. DBA POWER ACOUSTIK ELECTRONICS,
09- R6D2-2325 THROUGH 2332
37. ESTENSON LOGISTICS LLC 05-R1D4-1755 AND 1756
38. EZ MIX, INC., 08-R4D3-1898
39. FORKLIFT SALES OF SACRAMENTO, INC., 05-R2D1-3477
40. FORTUNA IRON WORKS 06-R2D3-4222
41. FREAS PLASTERING CO., INC., 08-R1D1-1188 AND 09-R1D1-2568

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42. G.T. ALDERMAN, INC., 05-R4D3-3513
43. GENERAL TRUSS CO. INC., 06-R2D1-783 AND 784
44. GHILOTTI BROS. CONTRACTORS, 04-R1D5-2321 AND 2322
45. GOLDEN WEST INDUSTRIES, INC., 08-R3D2-3930
46. GRISWOLD INDUSTRIES, 09-R6D2-0981 THROUGH 0984
47. HARBOR ORNAMENTAL, INC., 09-R3D5-2086
48. HB PARKCO, 07-R4D2-1730 AND 1731
49. HELPMATES STAFFING SERVICES, 05-R3D3-2239
50. HELM & SONS, INC., DBA HELM & SONS AMUSEMENTS, 08-R3D3-3513
51. THE HERRICK CORP., 07-R3D1-495
52. HUSSMAN CORPORATION, 03-R3D1-2939
53. INDUSTRIAL MASONRY, INC., 07-R3D2-735 AND 736
54. INTERNATIONAL ALUMINUM CORPORATION, 09-R6D2-1185
55. IRWIN INDUSTRIES, INC., 08-R6D4-1454 THROUGH 1456
56. JENSEN PRECAST, 05-R2D1-2377
57. JOHN LAING HOMES, 04-R3D1-194 AND 195
58. JOHN M. FRANK CONSTRUCTION, 06-R4D3-968
59. JT WINDOWS, INC., 09-R6D2-0693 THROUGH 0698
60. KELLY SERVICES, INC., 06-R1D2-1024
61. KINDER MORGAN ENERGY PARTNERS, LP., 05-R5D1-2013 AND 2014
62. LA MINA CANTINA, 09-R2D5-0039
63. LAND O' LAKES PURINA FEED LLC, 08-R2D4-1843 AND 1844
64. LIQUIVISION TECHNOLOGY, INC., 08-R2D1-1712 THROUGH 1714

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65. LION RAISINS, INC., 08-R2D5-2253 AND 2254
66. L N I CUSTOM MANUFACTURING, 10-R6D2-9154
67. LOS ANGELES, CITY OF, HOUSING AUTHORITY, (HACLA), 05-R4D2-2541
68. LOS ANGELES, COUNTY OF, DEPT. OF PUBLIC WORKS, 07-R4D2-2540
69. MARINE TERMINALS, 08-08-R6D2-1920
70. MARTIN J. SOLIS, DBA SOLIS FARM LABOR, 08-R2D1-3415
71. MELMARC PRODUCTS, INC., 09-R3D1-2878
72. MICHELS CORP. DBA MICHELS PIPELINE CONSTRUCTION, 07-R5D1-4274
73. MOOREFIELD CONSTRUCTION, INC., 10-R3D5-9207
74. NEWMAN FLANGE & FITTING COMPANY, 07-R2D4-2581 THROUGH 2583
75. NIBBI BROTHERS ASSOCIATES, INC., 07-R1D1-2494
76. PARAMOUNT FARMS, KING FACILITY, 09-R4D3-0864
77. PARKER-HANNIFIN CORPORATION, 08-R2D4-2508
78. PERFORMANCE CONTRACTING GROUP DBA PERFORMANCE CONTRACTING, INC., 08-R2D1-0025 AND 0026
79. POUK & STEINLE, INC., 09-R3D3-0491
80. PUSD ALEXANDER HAMILTON ELEMENTARY SCHOOL, 09-R4D2-0784
81. R.A. CAMPBELL, INC., 09-R6D2-1209 THROUGH 1211
82. R & L BROSAMER, INC., 03-R1D5-4832
83. RAMON ARANDA dba I & R PALLETS, 10-R6D5-9053
84. RIEZEBOS CONSTRUCTION, INC., 08-R2D5-1730
85. JOSH AND CARRIE SALAZAR DBA CJ MANUFACTURING, 09-R6D2-1710
86. SAN FRANCISCO FIRE DEPARTMENT, 09-R1D1-0655
87. SANTA PAULA HARVESTING, 09-R4D3-0510 THROUGH 0514

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88. SANTA ROSA CITY TRANSIT AND PARKING DEPARTMENT, 05-R1D5-1417
89. SELECT REMEDY, 08-R2D5-0048 THROUGH 0050
90. SHEEDY DRAYAGE COMPANY, 06-R1D4-3053 THROUGH 3055
91. SHIMMICK-OBAYASHI, 08-R3D3-5023 THROUGH 5025
92. SMUD, 08-R2D1-4887 THROUGH 4889 (filed by DOSH)
93. MARTIN J. SOLIS DBA SOLIS FARM LABOR CONTRACTOR, 08-R2D1-3414 THROUGH 3418
94. STACY & WITBECK, INC., 05-R1D1-1142
95. STENDERUP AG PARTNERS, 09-R6D2-2111 AND 2112
96. SUNOPTA FRUIT GROUP, 09-R3D1-9245
97. SUNRISE GROWERES FROZSUN FOODS, 09-R4D3-2850
98. TEICHERT & SON, INC., A CORPORATION DBA TEICHERT AGGREGATES, 04-R5D2-850 AND 851
99. TEICHERT & SON, INC. DBA TEICHERT CONSTRUCTION, 05-R2D4-2650 AND 2651
100. TEICHERT AGGREGATES, 04-R5D1-2982
101. UKIAH FORD-LINCOLN-MERCURY, INC., 06-R1D5-2256 AND 2557
102. UNITED PARCEL SERVICE, 07-R3D3-3322
103. WEBCOR CONSTRUCTION, 06-R1D1-2093 THROUGH 2095
104. WESTCOAST COMMUNICATION, 05-R2D3-2801 AND 2802
105. WINCHESTER CONSTRUCTION, 08-R4D3-4709 AND 4710

PENDING LITIGATION:

(If the Division of Occupational Safety & Health or the Employer disagrees with a decision after reconsideration or a denial of a petition for reconsideration, either one or both parties may apply to the California Superior Court for a writ of mandate. The Appeals Board receives legal advice from its Legal Unit and provides policy direction regarding pending litigation.)

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SUPERIOR COURT:

1. JERLANE, 37-2007-00056381-CU-WM-NC (01-4344/4345)
2. JERLANE, 37-2009-00059323-CU-WM-NC (08-1733)
3. E.L. YEAGER CONSTRUCTION COMPANY, INC. (DOSH v OSHAB),
34-2007-00882192-CU-WM-GDS, (01-3261)
4. BRUTOCO ENGINEERING & CONSTRUCTION, INC., 30-2007 00100159 (07-
9223)
5. MCI WORLDCOM, 34-2008-00006043-CU-WM-GDS (DOSH v. OSHAB) (00-440)
6. SHIMMICK CONSTRUCTION CO., 34-2008-80000121-CU-WM-GDS (06-1136)
7. XL CONSTRUCTION, 34-2009-80000300 (08- 1191/1193)
8. M.C.M. CONSTRUCTION, INC., 34-2009-80000378 (09-9230)
9. WEBCOR CONSTRUCTION LP dba WEBCOR BUILDERS, 34-2009-80000384
(08-R1D2-2499/2500)
10. WEBCOR BUILDER, INC., 34-2010-80000439 (06-R1D1-3030/3032)
11. WPCS INTERNATIONAL SUISUN CITY, INC., 34-2010-80000430
(09- 9280/9281)
12. FRESNO PRODUCE, CO., INC., 10CECG02394 (10-R6D1-9064)
13. MISSION FLAVORS AND FRAGRANCE, INC., 34-2010-80000599 (05-R6D2-
1139)
14. GRANITE CONSTRUCTION CO., INC., (DOSH V OSHAB) 34-2010-800006047
(07-R5D1-3611)
15. CLARK PACIFIC, A GENERAL CALIFORNIA PARTNERSHIP, 34-2010-
80000640 (08-R2D1-0027 THROUGH 0030)
16. BAY AREA RAPID TRANSIT DISTRICT, 34-2010-80000683 (09-R2D2-1218
THROUGH 1221)
17. EMERSON RUSSELL MAINTENANCE CO., RG-10543219 (08-R1D4-4167)
18. SMUD, 34-2010-80000723 (08-R2D1-4887)

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COURT OF APPEAL

1. HARRIS CONSTRUCTION COMPANY, INC., C065265 (07CS00518) (05-3914)
2. HARRIS CONSTRUCTION COMPANY, INC., C065265 (07CS00518) (05-3914)

PERSONNEL:

(Issues regarding staff.)

Any matter not completed at this Closed Session may be continued to subsequent meetings.